

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
Nashville, Tennessee**

Craig Cunningham, pro se,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 3:16-cv-02921
)	
Sunshine Consulting Group, et al.)	
)	
Defendants.)	

Comes now, the Defendants, Donna Cologna and Cologna Building and Grounds, LLC, and would move for a dismissal of the cause of action against them pursuant to Rule 12 of the Federal Rules of Civil Procedure. Defendants, hereafter referred to as the Cologna Defendants are the solely remaining Defendants and were linked to this cause of action pursuant to an agency theory. The Defendants who were the acting agents have been dismissed based upon lack of personal jurisdiction. As such, this Tribunal has can have no jurisdiction based upon agency. Moreover, the Pleading fails to state a claim. In support of this Motion, Defendants attach a memorandum in support to prove the following:

- I. This Court lacks personal jurisdiction over the Cologna Defendants because jurisdiction is not authorized by the Tennessee long-arm statute and the Cologna Defendants do not have sufficient minimum contacts with Tennessee as required by due process.
- II. Standard of Review for a Rule 12 Dismissal for failure to state a claim.

- III. The Complaint fails to state a claim in violation of Rule 12, when it does not it does not plead specific facts to support the vicarious liability or agency.
- IV. Plaintiff sets forth speculation and theory rather than the minimum facts required to support his claim for relief.

Respectfully submitted,

s/Constance Mann

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CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify, that we have served Motion and Memorandum to Dismiss on all Filing Users through the electronic filing system.

Date of Service: August 31, 2017

Served by:

“s/” Constance Mann
Constance Mann, Esq.
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